

CAUSE NO. 2011-50578

AT&T CORPORATION'S SUPPLEMENTAL
ORIGINAL ANSWER TO PLAINTIFF'S PLEADINGS
AND
COUNTERCLAIMS

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, AT&T CORPORATION, (hereinafter referred to as "AT&T"), a Defendant herein, and files this its Supplemental Original Answer to the Plaintiffs' Pleadings and Counterclaims, complaining of ERVIN WALKER, DONALD WALKER and ERIC ALLEN, and would show unto the Court and jury the following:

II. **GENERAL DENIAL**

Subject to any stipulations or admissions that may hereafter be made and agreed upon between the parties, if any, AT&T generally denies the allegations made by the Plaintiffs and respectfully request that the Plaintiffs be required to prove their material allegations against AT&T

by a preponderance of the evidence as is required by the Constitution and the laws of the State of Texas, as well as in any other amended or supplemental petitions.

**II.
DEFENSES**

By this supplemental answer, AT&T reasserts each and every defense asserted in its Original Answer to the Plaintiffs' Second Amended Answer, in response to Plaintiffs' Third Amended Petition. Additionally, AT&T additionally pleads the affirmative defense of standing to the extent the Plaintiffs' claims against AT&T rely on their status as an employee as they were never employees of AT&T.

**III.
FRIVOLOUS CLAIMS AND MALICIOUS PROSECUTION**

Additionally, AT&T hereby asserts that the claims brought by the Plaintiffs against AT&T in this lawsuit are frivolous and the Plaintiff's prosecution of the same constitutes malicious prosecution, which AT&T asserts as both a defense and a cause of action against the Plaintiffs by this pleading. As previously plead and asserted by AT&T, neither the Plaintiffs nor any putative plaintiffs were employed by AT&T. Accordingly, they cannot properly prevail on their claims against AT&T.

**IV.
DAMAGES, RELIEF SOUGHT, AND ATTORNEYS' FEES**

AT&T Corporation, prays that, upon final trial, Plaintiffs, ERVIN WALKER, DONALD WALKER and ERIC ALLEN, take nothing by reason of their suit, that the Court declare that the Plaintiffs' claims against AT&T are frivolous, that their prosecution of the same constitutes malicious prosecution, and that, as a result of the Court's declarations in that regard, AT&T be awarded its attorneys' fees in this case through trial and any subsequent appeal of the outcome of

trial pursuant to the Texas Declaratory Judgment Act as stated in Chapter 37 in the Texas Civil Practice and Remedies Code.

**V.
PRAYER & CONCLUSION**

AT&T hereby reserves the right to amend this answer and assert whatever additional affirmative defenses and counterclaims that may be available to it.

THEREFORE, PREMISES CONSIDERED, Defendant, AT&T Corporation, prays that, upon final trial and hearing hereof, Plaintiffs, ERVIN WALKER, DONALD WALKER and ERIC ALLEN, take nothing by reason of their suit; that Plaintiffs be denied all damages of any type or kind, and that Defendant, AT&T Corporation, recovers its attorneys fees and costs where applicable, and for such other further relief to which AT&T Corporation is entitled, both in law and at equity.

Respectfully submitted,

DABNEY & PAPPAS

By: /s/ Gus E. Pappas
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ATTORNEYS FOR DEFENDANT
AT&T CORPORATION

CERTIFICATE OF SERVICE

In accordance with TEX. R. CIV. P. 21A, I, Gus E. Pappas, counsel for AT&T Corporation, do hereby certify that a true and correct copy of the above and foregoing AT&T Corporation's Supplemental Original Answer to Plaintiff's Pleadings and Counterclaims was forwarded to the following counsel of record, *via facsimile*, on this the 16th day of November, 2012.

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